

# DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. underneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

## METHODS FOR DETERMINING THERAPEUTIC INDEX FROM GENE EXPRESSION PROFILES

and for which a patent application:

☐ is attached hereto and includes amendment(s) filed on \_\_\_\_\_ (if applicable)  
☒ was filed in the United States on December 28, 1998 as Application No. 09/222,582 (for declaration not accompanying application)  
 with amendment(s) filed on \_\_\_\_\_ (if applicable)  
☐ was filed as PCT international Application No. \_\_\_\_\_ on \_\_\_\_\_ and was amended under PCT Article 19 on \_\_\_\_\_ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION			
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

APPLICATION NUMBER	FILING DATE

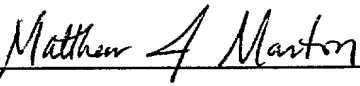
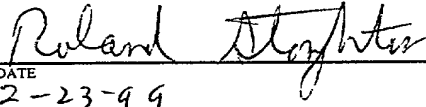
I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION SERIAL NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED

POWER OF ATTORNEY: As a named inventor, I hereby appoint S. Leslie Misrock (Reg. No. 18872), Harry C. Jones, III (Reg. No. 20280), Berj A. Terzian (Reg. No. 20060), Gerald J. Flintoft (Reg. No. 20823), David Weild, III (Reg. No. 21094), Jonathan A. Marshall (Reg. No. 24614), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Isaac Jarkovsky (Reg. No. 22713), Joseph V. Colaianne (Reg. No. 20019), Charles E. McKenney (Reg. No. 22795), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stern (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29166), Donald J. Goodell (Reg. No. 19766), James N. Palik (Reg. No. 25510), Thomas E. Friebe (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30753), Jon R. Stark (Reg. No. 30111), Allan A. Fanucci (Reg. No. 30256), Geraldine F. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Abrams (Reg. No. 30605), Steven I. Wallach (Reg. No. 35402), Marcia H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmond R. Bannon (Reg. No. 32110), Bruce J. Barker (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Ann L. Gisolfi (Reg. No. 31956), Mark A. Farley (Reg. No. 33170), and James G. Markey (Reg. No. 31636), all of Pennie & Edmonds LLP, whose addresses are 1155 Avenue of the Americas, New York, New York 10036, 1667 K Street N.W., Washington, DC 20006 and 3300 Hillview Avenue, Palo Alto, CA 94304, and each of them, my attorneys, to prosecute this application, and to transact all business in the Patent and Trademark Office connected therewith.

SEND CORRESPONDENCE TO: PENNIE & EDMONDS LLP 1155 AVENUE OF THE AMERICAS NEW YORK, N.Y. 10036-2711				DIRECT TELEPHONE CALLS TO: PENNIE & EDMONDS LLP DOCKETING (212) 790-2803	
2 0 1	FULL NAME OF INVENTOR	LAST NAME MARTON	FIRST NAME MATTHEW	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY SEATTLE	STATE OR FOREIGN COUNTRY WASHINGTON	COUNTRY OF CITIZENSHIP USA	
	POST OFFICE ADDRESS	STREET 2415 NW 91st	CITY SEATTLE	STATE OR COUNTRY WASHINGTON	ZIP CODE 98117
2 0 2	FULL NAME OF INVENTOR	LAST NAME STOUGHTON	FIRST NAME ROLAND	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY SAN DIEGO	STATE OR FOREIGN COUNTRY CALIFORNIA	COUNTRY OF CITIZENSHIP USA	
	POST OFFICE ADDRESS	STREET 425 WEST SPRUCE STREET	CITY SAN DIEGO	STATE OR COUNTRY CALIFORNIA	ZIP CODE 92103

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 201		SIGNATURE OF INVENTOR 202	
 MATTHEW MARTON		 ROLAND STOUGHTON	
DATE 2-23-99		DATE 2-23-99	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: ☒ Application of: Matthew Marton, *et al.*  
☐ Patent of:

☒ Serial No.: 09/222,582  
☐ Patent No.:

Group Art Unit: To Be Assigned

☒ Filed: December 28, 1998  
☐ Issued:

Examiner: To Be Assigned

For: METHODS FOR DETERMINING  
THERAPEUTIC INDEX FROM GENE  
EXPRESSION PROFILES

Attorney Docket No.:  
9301-026-999

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
[37 CFR 1.9(f) and 1.27(c)] - Small Business Concern

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
- ☒ an official of the small business concern empowered to act in behalf of the concern identified below:

Name of concern Rosetta Inpharmatics, Inc.

Address of concern 12040 115<sup>th</sup> Avenue, N.E.

Kirkland, Washington 98034

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the person employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern and/or there is an obligation under contract or law by the inventor(s) to convey rights to the small business concern with regard to the invention, entitled **METHODS FOR DETERMINING THERAPEUTIC INDEX FROM GENE EXPRESSION PROFILES** by inventor Matthew Marton, *et al.* in

- ☐ the specification filed herewith
- ☒ application serial no. 09/222,582 filed December 28, 1998
- ☐ patent no. issued

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not

qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

FULL NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_

☐ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28 (b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, and patent issuing thereon, or any patent to which this verified statement is directed.

Send correspondence and      PENNIE & EDMONDS LLP  
Direct Telephone calls to:      1155 Avenue of the Americas  
New York, N.Y. 10036-2711  
(212) 790-9090

Name of person signing      John J. King, II  
Title of person other than owner      Senior Vice President and Chief Operating Officer  
Address of person signing      Rosetta Inpharmatics, Inc.  
12040 115<sup>th</sup> Avenue, Kirkland, Washington 98034  
Signature      John J. King, II      Date      2-23-99

\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities.  
(37 CFR 1.27)